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C O N F I D E N T I A L SECTION 01 OF 02 SANAA 000144

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TAGS: [PGOV](#) [KMPI](#) [KMCA](#) [KCOR](#) [YM](#) [KHUM](#) [DOMESTIC](#) [POLITICS](#)

SUBJECT: RECENT JUDICIAL RESHUFFLE: REFORM OR VANDETTA

REF: SANAA 2421

Classified By: DCM Nabeel Khoury for Reasons 1.4 (b) and (d).

¶11. (U) Summary. Most legal experts view a recent reshuffle of the Yemeni judiciary by the Supreme Judicial Council (SJC) more as a vendetta against supporters of rebel cleric Hussein al-Houthi (reftel) than as a serious effort to reform Yemen's weak judiciary. What is required, they note, is a political will at the highest levels to undertake a serious overhaul of the system rather than just a reshuffling of some individuals in it. End Summary.

¶12. (U) Citing the need to combat corruption, the ROYG announced a reshuffle of the judiciary, which began on 12/22 with the dismissal of 22 judges for corruption, designation of eight judges for investigation of &alleged violations committed in the course of their work,⁸ and the forced retirement of 108 judges with full benefits.

The Numbers

¶13. (U) The rearranging of the judiciary is actually more widespread than the official announcement. Papers reported that at the national level 25 new judges were appointed to the Supreme Court, and 2 judges were promoted to the SJC while 159 appellate judges exchanged posts. District level courts saw the appointment of 68 chief and 172 associate judges.

¶14. (U) At the Attorney General's (AG) level, 52 judges were assigned to the AG's office, 23 heads of public prosecutions 124 appellate prosecutors and 187 general prosecutors were also shuffled. (Note: In Yemen, it is not uncommon for the Prosecutor's/Attorney General's office and the judiciary to act interchangeably. End Note).

You can blame it on Sa'da (kind of())

¶15. (C) Most in Yemen judicial circles including a former minister, two UNDP experts and some prominent defense attorneys, view the reshuffle as -hing new.⁸ Interlocutors, including a prominent former Minister of Justice and member of the Upper Shura Council, report that plans for conducting judicial reform had been on Saleh,s desk for a long time and that reshuffles occurred in the past without any effect. (Note. This is the third judicial reshuffle Yemen has undergone since 1997. In 2003 the SJC fired 13 judges. In 2002 it dismissed 35 judges and prosecutors. Both times the ROYG cited corruption as the primary cause. End Note).

¶16. (C) Most legal actors advise that the forced retirement was actually a political move aimed primarily at Zaidi-Shiite judges, who until the reshuffle essentially formed the backbone of the judiciary. This, they point out, is Saleh,s way of castigating those Zaidi blocs (and rewarding those Sunni-Shafi' blocks) he feels were not loyal enough to him during the Sa'da rebellion. (Reftel). The reshuffle effectively diminished the Zaidi majority in the judiciary from 65% to 40% of total judges. Several interlocutors anticipate that once Saleh feels more secure in the balance of the power structure there would be a return of several of the 108 judges to the bench and/or AG,s office in some fashion.

¶17. (C) Several also note that, contrary to widespread sentiment, corruption is not the primary problem of the judiciary. Instead, they note the judiciary needs, more than anything, to be independent of the executive branch. They also cite the need for a stronger and more credentialed judiciary to arbitrate justice, a higher transparency in the system, and the need for a more efficient system to assure rule of law.

Where there is a (political) will there is a way...

¶18. (C) The recent reshuffle also came on the heels of the

Minister of Justice, Dr. Adnan Omar al-Jafri (MOJ) announcing to an American Bar Association (ABA) delegation, in Yemen to assess the need for reform in Yemen's judicial system, that the MOJ is launching a ten-year reform effort aimed at strengthening Yemen's judiciary. Interlocutors remain skeptical of any true change from either the reshuffle or the MOJ's 10 year plan. Although the judiciary itself seems prepared for a change, the political will & is not there,⁸ said a former minister and Shura Council member. The power base, which includes several high-ranking ministers and executive branch officials, they argue, is too entrenched and conservative to effectuate any true independence from the executive branch. Others note that Saleh himself has lost interest in the judiciary and would need to re-engage in order to refocus national and international efforts for judicial reform.

¶9. (C) Several insiders also point out that although an advocate for change, Jaffri is currently embroiled in a struggle over his role and reform agenda with several conservative groups within the judiciary and Ministry of Justice who are interested in keeping the status quo. Others critique that he is not close enough to Saleh to effectuate a change.

¶10. (C) A consensus in judiciary circles note that true political will and reform can be created by strengthening the judiciary in technical and political ways, a fostering of political will among several groups within the executive branch, and partnership to help all understand the benefits of a strong and independent judiciary. Several also urged the need for & practical proposals, ⁸ such as criteria building in legal education, to foster partnership and develop the judiciary. This, most of them urge, would take time but was possible.

¶11. (C) Comment: The view that the reshuffle is motivated by last summer's Sa'da fighting is widespread in the Yemeni legal community. If true, then we are witnessing executive tampering at its height. If Sa'da is the motivation for the reshuffle, then the ROYG is likely also realigning the judiciary in preparation for widespread prosecutions of Sa'da dissidents in the upcoming year.

¶12. (C) Comment Continued: Although several interlocutors are skeptical of the reshuffle in itself, discussions reveal that judicial reform, if long-term and multifaceted, is possible. Finally, no matter what the motivation of the executive branch, the reshuffling is likely to have some impact on corruption and spark more efforts for judicial change at least within the Yemeni bar. All are resigned, however, to the fact that serious reform is a long term prospect in Yemen. End Comment.

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